PATENT APPLICATION
CS8772
BCS03-3031

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF	)
	) ART UNIT: 4121
RALF DUNKEL ET AL	)
	) EXAMINER: ALICIA L. FIERRO
SERIAL NO.: 10/576,060	)
	) CONFIRMATION NO.: 2152
FILED: AUGUST 28, 2006	)
	)
TITLE: ISOPENTYL CARBOXANILIDES FOR COMBATING UNDESIRED MICRO-ORGANISMS	)
	)
	)

DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Peter Dahmen, of Altebrücker Str. 61, 41470 Neuss, Germany, a citizen of Germany, hereby declare:

1. I am a biologist having studied at the University of Bonn, Germany, where I received the degree of Dr. agr., I entered the employ of Bayer Aktiengesellschaft, Leverkusen, Germany, in 1991, where I have been employed in the department of Biology Herbicides and after the spin-off from Bayer CropScience AG I am now employee of this company in the department of Global Biology Fungicides; and I specialize in the field of fungicide research.

2. I am familiar with the subject matter of the above-identified United States patent application.

3. The following tests have been carried out under my supervision and control.

Example 1 *Septoria* test (wheat) / protective

Solvent: 50 parts by weight of dimethylacetamide

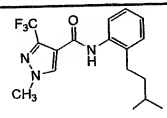
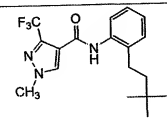
Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with a stated amount of solvent, and the concentrate is diluted with water and the stated amount of emulsifier to the desired concentration.

To test for protective activity, young wheat plants are sprayed with the preparation of active compound at the stated rate of application. After the spray coating has dried, the plants are inoculated with an aqueous spore suspension of *Septoria tritici*. The plants are then placed for 2 days in an incubation chamber at 100% relative atmospheric humidity and 20°C, after which the plants are placed under an incubation cabinet at 100% relative atmospheric humidity and 15°C for 2.5 days. After incubation the plants are placed in a greenhouse chamber at 80% relative atmospheric humidity and 15°C.

The test is evaluated 21 days after inoculation. Test results are shown in the following Table 1. 0% means an efficacy corresponding to that of the control, whereas an efficacy of 100% means that no disease is observed.

Table 1: *Septoria* test (wheat) / protective

Active compound	Rate of application of active compound in ppm	Efficacy in %
Comparison compound: Compound 4 of US 5,965,774 	1000	71
Inventive compound of S/N 10/576,060 	1000	100

Example 2 *Pyrenophora teres* test (barley) / preventive

Solvent: 50 parts by weight of dimethylacetamide

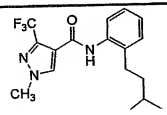
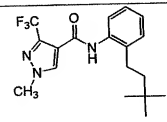
Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with a stated amount of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

To test for protective activity, young barley plants are sprayed with the preparation of active compound at the stated rate of application. After the spray coating has dried, the plants are sprayed with a conidia suspension of *Pyrenophora teres*. The plants then remain for 48 hours in an incubation cabinet at 20°C and a relative atmospheric humidity of 100%. After incubation the plants are placed in a greenhouse at a temperature of approximately 20°C and a relative atmospheric humidity of approximately 80%.

The test is evaluated 10 days after inoculation. Test results are shown in the following Table 2. 0% means an efficacy corresponding to that of the control, whereas an efficacy of 100% means that no disease is observed.

Table 2: *Pyrenophora teres* test (barley) / preventive

Active compound	Rate of application of active compound in ppm	Efficacy in %
Comparison compound: Compound 4 of US 5,965,774 	1000	71
Inventive compound of S/N 10/576,060 	1000	93

4. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Further Declarant Sayeth Not.

Signed at Monheim, Germany, this 10. day of July, 2009.

Pet-Dah

PETER DAHMEN

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Ulrike Wachendorff-Neumann of Oberer Markenweg 85, 56566 Neuwied, Germany, a citizen of Germany, hereby declare:

1. I am an entomologist having studied at the University of Bonn, Germany, where I received the degree of doctor rer. nat. in the year 1982; I specialized in the field of entomology and phytopathology; and I entered the employ of Bayer Aktiengesellschaft, Leverkusen, Germany, in 1982, where I have been employed in the department for biological development of chemical compounds for plant diseases at Monheim, Germany, and after the spin-off to form Bayer CropScience AG I am now an employee of this company in the department of Global Biology Fungicides.

2. I am familiar with the subject matter of the above-identified United States patent application.

3. The following tests have been carried out under my supervision and control.

Example 1 *Botrytis* test (beans) / protective

Solvent: 24.5 parts by weight of acetone

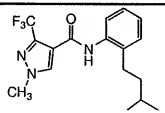
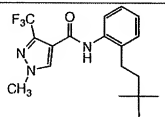
24.5 parts by weight of dimethylacetamide

Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amounts of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

To test for protective activity, young bean plants are sprayed with the preparation of active compound at the stated rate of application. After the spray coating has dried, two small pieces of agar covered with a growth of *Botrytis cinerea* are placed on each leaf. The inoculated plants are placed in a darkened chamber at 20°C and a relative atmospheric humidity of 100%. Two days after inoculation, the size of the lesions on the leaves is evaluated. Test results are shown in the following Table 1. 0% means an efficacy corresponding to that of the control, whereas an efficacy of 100% means that no disease is observed.

Table 1: *Botrytis* test (beans) / protective

Active compound	Rate of application of active compound in ppm	Efficacy in %
Comparison compound: Compound 4 of US 5,965,774 	100	65
Inventive compound of S/N 10/576,060 	100	96

Example 2 *Sphaerotheca* test (cucumbers) / protective

Solvent: 24.5 parts by weight of acetone

24.5 parts by weight of dimethylacetamide

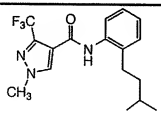
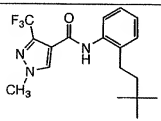
Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with a stated amount of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

To test for protective activity, young cucumber plants are sprayed with the preparation of active compound at the stated rate of application. After the spray coating has dried, the plants are inoculated with an aqueous spore suspension of *Sphaerotheca fuliginea*. The plants are then placed in a greenhouse at approximately 23°C and a relative atmospheric humidity of approximately 70%.

The test is evaluated 7 days after inoculation. Test results are shown in the following Table 2. 0% means an efficacy that corresponds to that of the control, whereas an efficacy of 100% means that no disease is observed.

Table 2: *Sphaerotheca* test (cucumbers) / protective

Active compound	Rate of application of active compound in ppm	Efficacy in %
Comparison compound: Compound 4 of US 5,965,774 	10	54
Inventive compound of S/N 10/576,060 	10	100

4. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Further Declarant Sayeth Not.

Signed at Monheim, Germany, this 10th day of July, 2009.

ULRIKE WACHENDORFF-NEUMANN